

Senate File 2349 - Enrolled

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SENATE FILE 2349

AN ACT

RELATING TO THE PRENEED SALE OF CEMETERY AND FUNERAL
MERCHANDISE AND FUNERAL SERVICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 523A.102, subsection 27, Code
Supplement 2007, is amended to read as follows:

27. "Seller" or "preneed seller" means a person doing
business within this state, including a person doing business
within this state who sells insurance, who advertises, sells,
promotes, or offers to furnish cemetery merchandise, funeral
merchandise, funeral services, or a combination thereof when
performance or delivery may be more than one hundred twenty
days following the initial payment on the account whether the
transaction is completed or offered in person, through the
mail, over the telephone, by the internet, or through any
other means of commerce. "Seller" or "preneed seller"
includes any person performing any term of a purchase
agreement executed within this state, and any person
identified under a burial account as the provider of cemetery
merchandise, funeral merchandise, funeral services, or a
combination thereof. "Seller" or "preneed seller" does not
include a person who has an ownership interest in a seller or
preneed seller but who is not actively engaged in advertising,
selling, promoting, or offering to furnish such cemetery
merchandise, funeral merchandise, funeral services, or a
combination thereof.

Sec. 2. Section 523A.203, Code Supplement 2007, is amended
by adding the following new subsection:

NEW SUBSECTION. 5A. A financial institution acting as a
trustee of trust funds under this chapter shall notify each
purchaser within sixty days from the date of deposit
confirming that a deposit has been made establishing a trust
fund for the purchaser's payments made under the purchase
agreement.

Sec. 3. Section 523A.203, subsection 6, Code Supplement
2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Use any funds required to be held in
trust pursuant to section 523A.201 to purchase an insurance
policy or annuity.

Sec. 4. Section 523A.405, subsection 8, Code Supplement
2007, is amended to read as follows:

8. The amount of the surety bond shall equal eighty
percent of the payments received pursuant to purchase
agreements, or the applicable portion thereof, for cemetery
merchandise, funeral merchandise, funeral services, or a
combination thereof, and the amount needed to adjust the
amount of the surety bond for inflation as set by the
commissioner based on the consumer price index. The seller
shall review the amount of the surety bond no less than
annually and shall increase the bond as necessary to reflect
additional payments. The amount needed to adjust for
inflation shall be added annually to the surety bond during
the first quarter of the ~~establishment's~~ seller's fiscal year.

Sec. 5. Section 523A.501, subsection 3, paragraph a, Code
Supplement 2007, is amended to read as follows:

a. The commissioner shall request and obtain,
notwithstanding section 692.2, subsection 5, criminal history
data for any director of, or person with a financial interest
in, a preneed seller who is an applicant for an initial
license issued pursuant to this section, ~~any~~ an applicant for
reinstatement of a license issued pursuant to this section, or
~~any~~ a licensee who is being monitored as a result of a
commission order or agreement resolving an administrative
disciplinary action, for the purpose of evaluating the
applicant's or licensee's eligibility for licensure or
suitability for continued practice as a preneed seller, as
required by the commissioner by rules adopted pursuant to
chapter 17A. The commissioner ~~shall adopt rules pursuant to~~
~~chapter 17A to implement this section may limit this~~

3 4 requirement to those persons who have the ability to control
3 5 or direct control of trust funds under this chapter. The
3 6 commissioner shall inform ~~the an~~ applicant or licensee ~~of to~~
3 7 ~~whom~~ the criminal history requirement applies and obtain a
3 8 signed waiver from the applicant or licensee prior to
3 9 submitting a criminal history data request.
3 10 Sec. 6. Section 523A.501, subsection 4, Code Supplement
3 11 2007, is amended to read as follows:
3 12 4. The commissioner shall request and obtain a financial
3 13 history for any director of, or person with a financial
3 14 interest in, a preneed seller who is an applicant for an
3 15 initial license issued pursuant to this section, ~~any an~~
3 16 applicant for reinstatement of a license issued pursuant to
3 17 this section, or ~~any a~~ licensee who is being monitored as a
3 18 result of a commission order or agreement resolving an
3 19 administrative disciplinary action, for the purpose of
3 20 evaluating the applicant's or licensee's eligibility for
3 21 licensure or suitability for continued practice as a preneed
3 22 seller, as required by the commissioner by rules adopted
3 23 pursuant to chapter 17A. The commissioner may limit this
3 24 requirement to those persons who have the ability to control
3 25 or direct control of trust funds under this chapter.
3 26 "Financial history" means the record of a person's current
3 27 loans, the date of a person's loans, the amount of the loans,
3 28 the person's payment record on the loans, current liens
3 29 against the person's property, and the person's most recent
3 30 financial statement setting forth the assets, liabilities, and
3 31 the net worth of the person.
3 32 Sec. 7. Section 523A.502, subsection 6, Code Supplement
3 33 2007, is amended to read as follows:
3 34 6. A sales agent licensed pursuant to this section shall
3 35 satisfactorily fulfill continuing education requirements for
4 1 the license as prescribed by the commissioner by rule.
4 2 However, this continuing education requirement is not
4 3 applicable to a sales agent who is also a licensed insurance
4 4 producer under chapter 522B or a licensed funeral director
4 5 under chapter 156.
4 6 Sec. 8. Section 523A.601, subsection 6, paragraph a, Code
4 7 Supplement 2007, is amended to read as follows:
4 8 a. A purchase agreement that is funded by a trust shall
4 9 include a conspicuous statement in language substantially
4 10 similar to the following language:
4 11 "For your prearranged funeral agreement, we will deposit
4 12 not less than eighty percent of your payments in trust at
4 13 (name of financial institution), (street address), (city),
4 14 (state) (zip code) within fifteen days following receipt of
4 15 the funds. For your protection, you ~~have the right to contact~~
4 16 ~~will be notified within sixty days from the date of deposit~~
4 17 ~~from the financial institution directly, if acting as a~~
4 18 ~~trustee of trust funds under this chapter, to confirm that the~~
4 19 ~~deposit of these funds occurred has been made establishing a~~
4 20 ~~trust fund as required by law. If you unable to confirm the~~
4 21 ~~deposit of these funds in trust do not receive this~~
4 22 ~~notification, you may contact the Iowa insurance division for~~
4 23 ~~assistance by calling the insurance division at (telephone~~
4 24 ~~number) or by mail at (street address), (city), Iowa (zip~~
4 25 ~~code), or you may contact the financial institution by calling~~
4 26 ~~the financial institution at (telephone number) or by mail at~~
4 27 ~~the address indicated above."~~
4 28 Sec. 9. NEW SECTION. 523A.810A ELECTRONIC FILING.
4 29 The commissioner shall, by rule, develop a system and
4 30 procedures and a format for electronic filing of documents
4 31 required to be filed with the commissioner under this chapter.
4 32 Sec. 10. Section 523A.811, subsection 1, paragraph c, Code
4 33 Supplement 2007, is amended to read as follows:
4 34 c. The amount of funds currently held in trust for
4 35 cemetery merchandise, funeral merchandise, and funeral
5 1 services is less than ~~eighty percent of all payments made~~
5 2 ~~under the purchase agreements referred to in the amount~~
5 3 ~~required in~~ section 523A.201, subsection 2 or 3, as
5 4 applicable.

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5 8 _____
5 9 JOHN P. KIBBIE
5 10 President of the Senate

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5 12 _____
5 13 PATRICK J. MURPHY
5 14 Speaker of the House

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5 16 I hereby certify that this bill originated in the Senate and
5 17 is known as Senate File 2349, Eighty-second General Assembly.
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5 21 _____
5 22 MICHAEL E. MARSHALL
5 23 Secretary of the Senate
5 24 Approved _____, 2008
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5 26 _____
5 27 CHESTER J. CULVER
5 28 Governor